



## LEGAL COMMITTEE

### Fifth Report

Item 9.2 of the agenda (document 33 C/65)

#### REPORT BY THE DIRECTOR-GENERAL CONCERNING THE PROTECTION OF THE NAME AND LOGO OF UNESCO

1. Charged by the General Committee of the General Conference to examine the legal aspects of item 9.2 of the agenda, the Committee examined the draft directives contained in the annex to 172 EX/Decision 45 (document 33 C/65 containing the report by the Director-General concerning the protection of the name and logo of UNESCO).
2. The representative of the Director-General and the Legal Adviser gave a preliminary presentation of this item. After a long debate in the course of which some members questioned the advisability of the submission of this matter to the Committee (in particular on account of the nature of the document concerned), while other members wondered whether it was possible to give a legal opinion on a complex document which had been brought to their attention at a late date, the Committee proceeded to undertake a brief examination of the draft directives. In so doing the Committee clearly stated that it intended neither to debate Part IV (Role of the Member States and their National Commissions) which was not yet the subject of any provision in the above-mentioned draft text, nor to substitute its appraisal for that of Commission I, in whose agenda the item is included.
3. With regard to Part I (Name, acronym, logo and Internet domain name of the Organization), the Committee wished to emphasize that the reference to Article 6 ter of the Paris Convention for the Protection of Industrial Property, adopted in 1883 and revised at Stockholm in 1967 (paragraph I.2) could give rise to some difficulties of a legal nature on account of the interpretation that some States Parties give to this instrument. Moreover, the Committee noted that the Paris Convention did not settle all the problems of protection inasmuch as it only refers to marks.
4. With regard to paragraph I.3 (Rights of use), the Committee wished to state that the general reference to the right to use the name, acronym, logo and the domain names of UNESCO granted to the governing bodies, the Secretariat and the National Commissions for UNESCO must necessarily be interpreted in the light of the specific rules that appear in the draft directives. In this connection, it was also noted that it would be preferable, in the interests of greater clarity, to write "without prior authorization *and* subject to *observance* of the rules set out by the Directives".

5. With regard to Part II (Forms of use) and Part III (Role of the governing bodies and of the Director-General), the Committee considered it was not in a position to make a careful examination of their legal scope since that would depend on the nature of the implementation measures that were to be formulated in the course of the forthcoming consultations.

6. With regard to Part V (Amendment of the directives), the Committee wished to draw attention to the fact that the current wording gave each of the governing bodies the power to amend the directives unilaterally, thereby allowing, for example, the Executive Board to amend the directives adopted by the General Conference. In the opinion of the Committee, the drafting of this provision should be clarified.

7. The Legal Committee has confined its observations to those of a preliminary nature, on account of the time available to it, but wished to state that those observations did not constitute an exhaustive list of the possible legal difficulties.

8. In view of the importance of this matter and its legal aspects, it was the opinion of the Legal Committee that Commission I might wish to consider, as one of the possible options, that the final, complete text of the draft directives should be submitted to the General Conference at its next session and included in the agenda of both Commission I and the Legal Committee.